



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2013-0526]

RIN 1625-AA09

Drawbridge Operation Regulation; Umpqua River, Reedsport, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the operating schedule that governs the U.S. 101 Umpqua River swing bridge, mile 11.1, at Reedsport, OR. The proposed rule change is necessary to accommodate Oregon Department of Transportation's (ODOT) extensive bridge maintenance and restoration efforts. The bridge is currently scheduled to open on signal if at least two hours notice is given. ODOT proposes to only open the bridge with a minimum of six hours notice and will limit the openings to twice daily; once in the morning and once in the evening.

DATES: Comments and related material must reach the Coast Guard on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2013-0526 using any one of the following

methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments. To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule change, call or e-mail Steven M. Fischer, Lieutenant Commander, Thirteenth District Bridge Program Office, Coast Guard, telephone 206-220-7277; e-mail Steven.M.Fischer2@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
§	Section Symbol
U.S.C.	United States Code

A. Public Participation and Request for Comments

We encourage you to participate in this proposed rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG-2013-0526), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you

include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2013-0526] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2013-0526) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey

Avenue SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for a meeting that reaches the Coast Guard on or before [Insert date 15 days after date of publication in the FEDERAL REGISTER] using one of the four methods specified under ADDRESSES. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Basis and Purpose

The Oregon Department of Transportation (ODOT), who owns and operates this bridge, has requested a temporary change to the existing operating regulations of the U.S. 101 Umpqua River Bridge, at Reedsport, OR to facilitate restoration of the bridge. The restoration project will

entail painting, rust removal, and steel repairs which require full containment to keep paint and debris out of the Umpqua River. The bridge swing span requires a containment system that is balanced in order to allow the bridge to open properly.

In an effort to accommodate both the needs of the waterway and highway users and exercising good stewardship of public funding, ODOT requested a temporary rule change in order to reduce the burden on ODOT maintenance crews from repeatedly installing and uninstalling the containment system. The containment structure will extend ten feet below the bridge, reducing the existing clearance of the bridge from approximately 36 feet to approximately 26 feet at mean high tide.

The current operating schedule will overburden construction crews in that if the bridge needs to open, the containment system will need to be cleaned out and disassembled on both side spans of the swing span due to the need to maintain proper balance between the spans. The estimated time to clean and disassemble the containment system is approximately 2 hours.

To facilitate the bridge restoration work, and to minimize the impact on navigation, from December 1, 2013 to September 30, 2015 the drawbridge would operate as follows: the bridge shall be maintained in the closed position to

perform maintenance; it would open twice daily, once at 7 a.m. and once at 6 p.m., only if an opening is requested at least six hours in advance.

The U.S. 101 Umpqua River Bridge is a swing span drawbridge, near Reedsport, OR, located at waterway mile 11.1. In the closed position, this drawbridge has a vertical clearance of 36 feet above mean high tide. Vessel traffic along this part of the Umpqua River consists of vessels ranging from occasional commercial tug and barge to small pleasure craft. ODOT has examined bridge opening logs and contacted all waterway users that have requested bridge openings throughout the last two years. The input ODOT received from waterway users indicated that the proposed change will likely have a minimal impact on users, and ODOT has attempted to mitigate identified concerns by offering to provide a location for a limited number of vessels up to 75' in length to dock during non-opening hours down river from the U.S. 101 Umpqua River Bridge at Salmon Harbor Marina.

C. Discussion of Proposed Rule

The Coast Guard would temporarily revise the operating regulations at 33 CFR 117.893. The regulation currently states that the U.S. 101 Umpqua River Bridge shall open on signal if at least two hours notice is given. The Coast Guard proposes to temporarily change the regulation such that from 7 a.m. on December 1, 2013 to 11:59 p.m. on

September 30, 2015, the draw of the US 101 Bridge, mile 11.1, at Reedsport, Oregon, shall open at 7 a.m. and 6 p.m. when at least 6 hours of advance notice is given.

D. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard has made this finding based on the fact that all requested bridge openings will be granted with advance notification and vessels that can safely transit under the bridge may do so at any time.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during

rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit the bridge between 7 a.m. and 6 p.m. Down river dock access will be made available during closure hours for vessels awaiting transit, and all vessels that can safely transit under the bridge may do so at any time.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business,

organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be

received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental

Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in

complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

E. List of Subjects in 33 CFR Part 117
Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

2. Amend temporarily § 117.893 to read as follows:

§117.893 Umpqua River.

(a) From 7 a.m. on December 1, 2013 to 11:59 p.m.
on September 30, 2015, the draw of the US 101
Bridge, mile 11.1, at Reedsport, Oregon, shall
open at 7 a.m. and 6 p.m. when at least 6 hours of
advance notice is given.

Dated: July 23, 2013

R. T. GROMLICH
Rear Admiral, U. S. Coast Guard
Commander, Thirteenth Coast Guard District

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